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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,211	09/11/2000	Noriyuki Hirayanagi	4641-55447	5080

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EXAMINER

EVERHART, CARIDAD

ART UNIT PAPER NUMBER

2825

DATE MAILED: 12/20/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/659,211

Applicant(s)

HIRAYANAGI, NORIYUKI

Examiner

Caridad M. Everhart

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Vucht (US 4,977,328).

Van Vucht discloses a method of microlithography using CPB for detecting a position of an alignment mark (col. 1, lines 5-8). The steps include the steps of irradiating a charged particle beam on an area that does not have an alignment mark, detecting backscattered particles, irradiating the alignment mark, detecting backscattered particles, and subtracting the two signals to determine the position (col. 1, lines 5-21, 35-39, and 60-67; col. 2, lines 3-9; col. 4, lines 63-68; and col. 5, lines 1-14 and 23-27). There is also disclosed an apparatus comprising a deflector, a controller, and a device for measuring substrate alignment (Fig. 1; deflector 14; controller 13; detector 7; electron gun 2; memory 12). It is disclosed that semiconductor devices can be formed by using this method, for example for lithography (col. 1, lines 65-68 and col. 2, lines 1-5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Vucht .

Van Vucht is silent with respect to the steps of forming a microelectronic device, although Van Vucht discloses that the forming of integrated circuits is the application of the method and the apparatus taught by Van Vucht (col. 1, lines 27-31).

With respect to the steps of preparing a wafer and processing a wafer, one of ordinary skill in the art would have been motivated to have performed these steps, because these steps are encompassed by the disclosure made by Van Vucht in that Van Vucht discloses a wafer specimen (Fig. 1, feature 3 and col. 2, lines 1-7) and in the disclosure that a mark is on an area of the specimen, the specimen would have had to have been prepared. With respect to a circuit produced by this method, the disclosure made by Van Vucht encompasses this limitation for the same reasons and because Van Vucht discloses integrated circuits made by the method of using CPB.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Everhart whose telephone number is (703) 308-3455. The examiner can normally be reached on Mon.-Fri. from 9:00 to 4:30..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith, can be reached on (703) 308-1323. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

C. Everhart

December 14, 2001

C. Everhart
CARIDAD EVERHART
PRIMARY EXAMINER